

ILLINOIS POLLUTION CONTROL BOARD  
September 20, 2012

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 10-9  
) (Enforcement - Land, Cost Recovery)  
WASTE HAULING LANDFILL, INC., )  
JERRY CAMFIELD, A.E. STALEY )  
MANUFACTURING CO., ARCHER )  
DANIELS MIDLAND, INC., ARAMARK )  
UNIFORM SERVICES, INC., BELL )  
SPORTS, INC., BORDEN CHEMICAL CO., )  
BRIDGESTONE/FIRESTONE, INC., )  
CLIMATE CONTROL, INC., )  
CATERPILLAR, INC., COMBE )  
LABORATORIES, INC., GENERAL )  
ELECTRIC RAILCAR SERVICES )  
CORPORATION, P & H )  
MANUFACTURING, INC., TRIPLE S )  
REFINING CORPORATION, TRINITY RAIL )  
GROUP, INC., and BORGWARNER, INC., )  
)  
Respondents. )

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On July 30, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Waste Hauling Landfill, Inc., Jerry Camfield, A.E. Staley Manufacturing Co., Archer Daniels Midland, Inc., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc., Trinity Rail Group, Inc., Triple S Refining Corporation, and Zexel Illinois, Inc. The complaint concerns Waste Hauling Landfill, Inc.'s former landfill facility located in the Northwest Quarter of the Northwest Quarter of Section 26, Township 16 North, Range 1 East (Blue Mound Township), Macon County (Landfill). Three respondents and the People now seek to settle without a hearing. For the reasons below, the Board accepts the three stipulations and proposed settlements.

The Board previously accepted stipulations and proposals for settlement involving Aramark Uniform & Career Apparel, LLC, Bell Sports, Inc., Caterpillar, Inc., General Electric Railcar Services Corporation, and P & H Manufacturing, Inc., *see People v. Waste Hauling Landfill, Inc. et al.*, PCB 10-9 (Apr. 21, 2011), Combe Laboratories, Inc.,

*see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Nov. 3, 2011), Borg Warner, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Nov. 17, 2011), and Climate Control, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Dec. 1, 2011). Borg Warner, Inc. was substituted for Zexel Illinois, Inc. *See* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 16, 2010). The Board has also granted the People's motions to voluntarily dismiss Triple S Refining Corporation, *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 8, 2011), and Archer Daniels Midland, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 16, 2010).

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the Attorney General and the State's Attorney may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code. 103. In this case, they allege that respondents are responsible parties under Section 22.2(f)(1), (f)(2), or (f)(3) of the Act (415 ILCS 4/22.2(f)(1), (f)(2), (f)(3) (2010)) and seek an award of past and future removal costs incurred by the Illinois Environmental Protection Agency (Agency) as a result of the releases and threatened releases of hazardous substances at the Landfill. Section 22.2(i) of the Act states that "costs and damages provided for in this Section may be imposed by the Board in an action brought before the Board in accordance with Title VIII of this Act . . . ." 415 ILCS 5/22.2(i) (2010).

Now pending are three stipulations and proposals for settlement filed on June 21, 2012, through which the People seek to settle with the following entities without a hearing: 1) Bridgestone Americas Tire Operations, LLC (BATO), formerly known as Bridgestone/Firestone, Inc.; 2) Momentive Specialty Chemicals Inc. (MSC), formerly known as Borden, Inc.<sup>1</sup>; and 3) A.E. Staley Manufacturing Co., now known as Tate & Lyle Ingredients Americas LLC (TLIA). *See* (415 ILCS 5/31(c)(1) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation with BATO, BATO agrees to pay \$324,000 to reimburse the Agency for removal costs incurred at the Landfill and \$1,000 to reimburse the Attorney General for litigation costs. Under the proposed stipulation with MSC, MSC agrees to pay \$33,000 to reimburse the Agency for removal costs incurred at the Landfill and \$450 to reimburse the Attorney General for litigation costs. Finally, under the proposed stipulation with TLIA, TLIA agrees to pay \$9,270 to reimburse the Agency for removal costs incurred at the Landfill and \$250 to reimburse the Attorney General for litigation costs. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Decatur Herald & Review* on July 16, 2012. The Board did not receive any requests for

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<sup>1</sup> The Board notes that the named party in the complaints is Borden Chemical Co. and on December 3, 2009, the Board granted a motion by Hexion Specialty Chemicals, Inc. (Hexion) as successor in interest to Borden Chemical Co (Borden) to appear *pro hac vice*. *See* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Dec. 3, 2009).

hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of the respondents' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2010)). The People and the respondents have satisfied Section 103.302. Respondents have not affirmatively admit the alleged violations, but agree to pay a total civil penalty of \$366,270.00. The Board accepts the three stipulation and proposed settlements.

This opinion constitutes the Board's findings of fact and conclusions of law.

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Bridgestone Americas Tire Operations, LLC (BATO) must each pay a total civil penalty of \$324,000, which shall be made in three installments. The first payment of one hundred and twenty-four thousand dollars (\$124,000) shall be paid by October 22, 2012, which is the first business day following the 30th day after the date of this order. The second payment of one hundred thousand dollars (\$100,000) shall be paid by September 20, 2013, which is first anniversary of the date the Board adopts and accepts this Stipulation. The third payment of one hundred thousand dollars (\$100,000) shall be paid by September 20, 2014, which is the second anniversary of the date the Board adopts and accepts this Stipulation. BATO must \$1,000 to reimburse the Attorney General for litigation costs by October 22, 2012, which is the first business day following the 30th day after the date of this order.
3. Momentive Specialty Chemicals Inc. (MSC), must pay a civil penalty of \$33,000 by October 22, 2012, which is the first business day following the 30th day after the date of this order. MSC must \$450.00 to reimburse the Attorney General for litigation costs by October 22, 2012, which is the first business day following the 30th day after the date of this order.
4. A.E. Staley Manufacturing Co., now known as Tate & Lyle Ingredients Americas LLC (TLIA) must pay a civil penalty of \$9,270 by October 22, 2012, which is the first business day following the 30th day after the date of this order. TLIA must \$250.00 to reimburse the Attorney General for litigation costs by October 22, 2012, which is the first business day following the 30th day after the date of this order.

5. The respondents must pay the civil penalties by certified check or money order, payable to the "Illinois EPA" for deposit into the Hazardous Waste Fund. The payment required by this stipulation to be made to the Attorney General shall be made by certified check or money order payable to the "Attorney General's State Projects and Court Ordered Distribution Fund" and designated for deposit in the "801 Fund". The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
6. The respondents must send the certified check or money order to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Respondents must send a copy of the certified check or money order, and any transmittal letter to:

Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

The respondents must send the certified check or money order directed to the Attorney General to:

Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

7. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
8. The respondents must cease and desist from the violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2010); *see also* 35 Ill. Adm. Code

101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 20, 2012, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John Therriault, Clerk  
Illinois Pollution Control Board